

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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| DEON VAL REESE, |) | |
| |) | |
| Petitioner, |) | Civil Action No. 19-775 |
| |) | District Judge Marilyn J. Horan/ |
| v. |) | Magistrate Judge Maureen P. Kelly |
| |) | |
| COMMONWEALTH OF PENNSYLVANIA |) | |
| and ALLEGHENY COUNTY COURT OF |) | |
| PLEAS, |) | |
| |) | |
| Respondents. |) | |

MEMORANDUM ORDER

Deon Val Reese (“Petitioner”) was, at the time of the filing of the instant civil action, a pre-trial detainee with respect to his custody in the Allegheny County Jail (“ACJ”). Petitioner filed a Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 by a state court pre-trial detainee (the “Petition”) in this Court, seeking to attack his pre-trial custody which was the result of the pending state charges in the Court of Common Pleas of Allegheny County. ECF No. 6-3 at 1. Commonwealth v. Reese, CP-02-CR-0008152-2017 (CCP Allegheny County).

The case was referred to Magistrate Judge Maureen Kelly in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local Civil Rules 72.C and D.

Magistrate Judge Kelly’s Report and Recommendation, ECF No. 10, filed on October 2, 2019, recommended that the Petition be dismissed pre-service because the state charges were nolle prossed and his custody, based thereon, which he challenged in the Petition, necessarily ended, rendering the Petition moot. The Report also noted that while Petitioner’s state charges were nolle prossed, Petitioner was charged by the federal authorities for the same actions that he

had previously been charged by the state authorities. Petitioner was informed that he could file Objections to the Report by October 21, 2019. Petitioner filed his Objections. ECF No. 11.

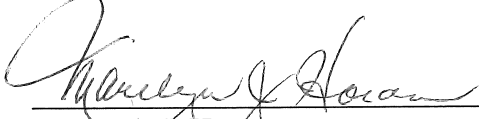
The Objections do not require rejection of the Report and Recommendation or extended comment.

Petitioner's Objections mostly assert the wrongfulness of the state court charges and that the state courts lacked jurisdiction over him. He complains that the nolle pros of his state charges does not address the alleged illegality of his arrest. *Id.* at 1 ("I'm being told that my 2241 got granted but did not get granted charges got nolle process [sic] which isn't my freedom from unlawful arrest, unlawful incarceration..."). Petitioner simply cannot overcome the simple logic of the Report. The Petition challenged his pre-trial custody which resulted from state charges that were nolle prossed, thereby ending his pre-trial custody pursuant thereto, and thereby rendering his challenge to that no-longer-extant custody now moot. Petitioner is now in pre-trial custody pursuant to federal charges. If he deems that federal pre-trial custody illegal, he is free to file whatever legal challenge he feels is proper to that federal custody. Nonetheless, his challenge to the now nolle prossed state charges and the now terminated pre-trial custody stemming therefrom, is most definitely moot as the Report correctly concluded.

Accordingly, **IT IS HEREBY ORDERED**, this 5th day of November 2019, after de novo review of the record and the Report and Recommendation, the Petition for Writ of Habeas Corpus is denied. A certificate of appealability is likewise denied as jurists of reason would not find this disposition to be debatable. Gibson v. Orleans Par. Sheriff, 13-30944, 2014 WL 1066987, at *1 (5th Cir. Mar. 20, 2014) ("Because Gibson is a state pre-trial detainee, a COA is required to appeal the district court's denial of § 2241 relief."); Evans v. Cir. Ct. of Cook County, Ill., 569 F.3d 665, 666 (7th Cir. 2009) ("Two other circuits that have considered the

question have concluded that a state prisoner being held after an indictment or preliminary hearing, who seeks pretrial release, needs a certificate of appealability in order to appeal from a district court's decision denying a petition for a writ of habeas corpus.... We agree with these decisions”) (citing Stringer v. Williams, 161 F.3d 259, 261–62 (5th Cir. 1998) and Wilson v. Belleque, 554 F.3d 816, 821, 824–25 (9th Cir. 2009)). The Report and Recommendation is adopted as the opinion of the Court.

BY THE COURT:



MARILYN J. HORAN
UNITED STATES DISTRICT JUDGE

cc: The Honorable Maureen Kelly
United States Magistrate Judge

DEON VAL REESE
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